

### REMARKS

Claims 59-72 are pending herein. By this Amendment, Claims 59, 61, 65, and 69-70 are amended, and new Claims 71-72 are added. Support for the claim amendments is found in the specification at, *inter alia*, paragraphs [0015], [0020], [0023], [0029], [0034], [0075], [0079], and [0082]-[0083]. No new matter is added by this Amendment.

#### I. EXAMINER INTERVIEW

Applicants thank Examiner Parker for the courtesies extended to their representative at the April 7, 2009 telephonic interview. During the interview, it was discussed clarifying the claim language of Claims 59 and 69, particularly the "firing" step and the "tinting" step to recite a coating, a surface, a product, and/or when the firing occurs. The claimed tinting composition was also discussed. Finally, Claim 65 was discussed regarding clarification of the sand.

#### II. FORMALITY MATTERS

The specification was objected to regarding the term "glassing". This objection is respectfully traversed.

The term "glassing" is synonymous with vitrification. As shown by the attached definition from *Hawley's Condensed Chemical Dictionary*, vitrification is the process of converting a siliceous material into an "amorphous, glassy form" by melting and cooling. As discussed at the examiner interview, one of ordinary skill in the art would understand the claimed step of firing a slurry-coated clay brick, wherein a flux level of the slurry is selected to prevent the slurry from glassing (i.e., converting into an amorphous glass by vitrifying) when the slurry-coated clay brick is fired. Reconsideration and withdrawal of the objection are respectfully requested.

Claims 59 and 69-70 are objected to. As suggested by the Examiner, the claimed are amended to include the word "added" before "colorants" in each slurry applying step. Reconsideration and withdrawal of the objection are respectfully requested.

Claims 59 and 69 are rejected under 35 U.S.C. 112, first paragraph, as assertedly being non-enabled. This rejection is respectfully traversed.

The steps of applying a slurry to a masonry surface comprising a clay brick to form a slurry-coated clay brick and firing the slurry-coated clay brick to form a masonry product are recited in Claims 59 and 69. Given the resulting masonry product, one of ordinary skill in the art of tinting of masonry products would have been able to tint the claimed masonry products without undue experimentation using a variety of tinting compositions, both organic and inorganic, and adjust the tint to achieve the desired effect.

Attached hereto is a Declaration Under 37 C.F.R. 1.132 from the inventor, Anthony Watling, which states that one of ordinary skill in the art would have been able to apply a variety of organic and inorganic tinting compositions to a masonry product treated according to the present invention to achieve a desired tint or color with little effort. Further, the claimed methods are clearly enabled in view of the *In re Wands* factors as follows:

(1) The quantity of experimentation needed to make or use the invention based on the content of the disclosure:

The disclosure clearly sets forth how to modify the reactivity of a masonry surface or product so that a tinting composition may be applied. Thus, little experimentation is required to apply a tinting composition to the masonry product (e.g., a fired slurry-coated clay brick).

(2) The amount of direction provided by the inventor and (3) The existence of working examples:

The inventor provides detail about both the modification of reactivity of masonry surface and provides examples of tinting compositions. See paragraphs [0021]-[0033] and [0075]-[0083] and Examples 1-4. It is axiomatic that inventor is not limited by the Examples or the preferred embodiments disclosed in the specification.

(4) The nature of the invention:

The invention is a straightforward process of treating and firing a masonry surface and then applying a tinting composition. Thus, undue experimentation is not

needed to tint the masonry product, and one of ordinary skill in the art could easily try different tinting compositions.

(5) The state of the prior art.

Tinting compositions are known in the art and could easily be tested without undue experimentation to determine if they could tint the claimed masonry product or surface.

(6) The relative skill of those in the art.

The relative skill of those in the masonry and tinting arts would be an individual with knowledge and experience in masonry and painting/tinting such surfaces. Any experimentation required by one of ordinary skill in the art would merely be reasonable and routine.

(7) The level of predictability in the art.

The art is not unpredictable.

(8) The breadth of the claims.

The claims are directed explicitly to tinting a masonry surface in which a masonry surface is treated in a specific manner to prepare for application of a tinting composition. Thus, the claimed are focused and not unduly broad.

Further, new Claims 71-72 recite that the tinting composition comprises an acrylic latex or alkyd emulsion. One of ordinary skill in the art would have been able to practice the claimed invention without undue experimentation. Accordingly, the requirements of 35 U.S.C. 112, first paragraph, are satisfied. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 59, 61, and 70 were rejected under 35 U.S.C. 112, second paragraph, as assertedly behind indefinite.

As noted above, one of ordinary skill in the art would clearly understand the step of firing a slurry-coated clay brick, thereby bonding the slurry to the clay brick, wherein a flux level is selected to prevent the slurry from glassing when the slurry-coated clay brick is fired, as recited in Claim 59 and 70. Claim 61 is amended to delete the term "clay suspension sources".

Accordingly, the scope of Claims 59, 61, and 70 would be reasonably ascertainable to one of ordinary skill in the art when read in light of the specification. The requirements of 35 U.S.C. 112, second paragraph, are satisfied. Reconsideration and withdrawal of the rejection are respectfully requested.

III. CONCLUSION

Applicants respectfully submit that all of the claims of this application are patentable. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

/Warren Zitlau/

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*Hawley's*  
**Condensed Chemical  
Dictionary**

*Fourteenth Edition*

Revised by  
**Richard J. Lewis, Sr.**



JOHN WILEY & SONS, INC.

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**viscosity index improver.** A lubricating-oil additive that has the effect of increasing the viscosity of the oil in such a way that it is greater at high temperature than at low temperature. Agents used for this purpose are polymers of alkyl esters of methacrylic acid, polyisobutylenes, etc.

**viscosity, kinematic.** See viscosity.

**"Vistac A" [AKZO].** TM for a series of synthetic hydrocarbon polymers.  
Use: Rubber-base adhesives and cements; latex and asphalt emulsions.

**visual purple.** See rhodopsin.

**vitamin.** Any of a number of complex organic compounds, present in natural products or made synthetically, which are essential in small proportions in the diet of animals and humans. Some are fat soluble (A, D, K); others are water soluble (B complex, C). Their precursors are called provitamins. A normal diet usually contains sufficient vitamins for health, although older people, the ill, young, or infirm may require different standards. Their use in medicine is restricted to correction of specific metabolic deficiencies. Some authorities believe that habitual intake of standishing vitamin preparations readily available on the market is of little if any nutritional benefit. The following list of cross-references will serve to locate technical information about the various vitamin entries in this book:  
Vitamin A See carotene; cryptoxanthin; retinol; 3-dehydroretinol; provitamin B  
See vitamin B complex; thiamine; riboflavin; niacin; panthothenic acid; biotin; cyanocobalamin; pyridoxine; folic acid; inositol. Vitamin C  
See ascorbic acid. Vitamin D  
See ergosterol; ergocalciferol; cholecalciferol. Vitamin E  
See tocopherol. Vitamin K  
See phytonadione; menadione; phthiocol.

**vitamin B complex.** A group of closely interrelated vitamins found in rice bran, yeast, wheat germ, etc., originally thought to be one substance. Studies carried out by R. J. Williams and associates later revealed the astonishing complexity of this group. He states as follows: "The physiological activity originally observed was due to the *additive* effect of a considerable number of substances, *each one* of which is of itself essential. If and when the designations B<sub>1</sub>, B<sub>2</sub>, B<sub>3</sub>, etc., are used, they have an entirely different meaning from the parallel use of D<sub>1</sub>, D<sub>2</sub>, D<sub>3</sub>, or K<sub>1</sub> and K<sub>2</sub>, because in the case of the D and K vitamins one form can replace another. In the case of the B vitamins each form is a distinctly different substance with different functions, and each member of the family is separately indispensable. No one B vitamin can replace any other."

**"Viton" [Du Pont].** TM for a series of fluoroclastomers based on the copolymer of vinylidene fluoride and hexafluoropropylene with the repeating structure possibly  $-\text{CF}_2-\text{CH}_2-\text{CF}_2-\text{CF}(\text{CF}_3)-$ .

**Properties:** White transparent solid. D 1.72-1.86. Resistant to corrosive liquids and chemicals up to 315°C. Useful continuous service at 204-232°C. Resistant to ozone, weather, flame, oils, fuels, lubricants, many solvents; radiation resistance good. Nonflammable.

**Use:** Gaskets, seals, diaphragms, tubing, aerospace and automotive components, high-vacuum equipment, low-temperature and radiation equipment.

**vitreous.** Descriptive of a material having the appearance and properties of a glass, i.e., a hard, amorphous, brittle structure, as in porcelain enamel. See vitrification; glass.

**vitreous enamel.** See porcelain enamel.

**vitrification.** The process of converting a siliceous material into an amorphous, glassy form by melting and cooling. As applied to radioactive waste disposal, it refers to incorporation of the waste in glassy materials for permanent storage.

**vitriol.** An obsolete term once used to refer to a number of sulfates (lead, copper, zinc) because of their glassy appearances. Sulfuric acid was called oil of vitriol. Derived from *vitrum* (glass).

**VM&P naphtha.** See naphtha (la).

**VOC.** See volatile organic compound.

**voids.** Empty spaces of molecular dimensions occurring between closely packed solid particles, as in powder metallurgy. Their presence permits barriers made by powder metallurgy techniques to act as diffusion membranes for separation of uranium isotopes in the gaseous diffusion process. See diffusion, gaseous.

**Voigt amination.** Amination of benzoin with amines in the presence of phosphorus pentoxide or hydrochloric acid.

**"Volan" [Du Pont]. (methacrylateochromic chloride).** TM for bonding agent.

**Use:** Applied to glass fibers used in reinforced plastic laminates to improve adhesion between glass and resin.

**volatile organic compound. (VOC).** Any hydrocarbon, except methane and ethane, with vapor pressure equal to or greater than 0.1 mm Hg.

**volatility.** The tendency of a solid or liquid material to pass into the vapor state at a given temperature. Specifically the vapor pressure of a component divided by its mole fraction in the liquid or solid.